

PROTOCOL TO REQUEST AN EXCEPTION TO ADMINISTRATIVE STAFFING ACTIONS DURING ACTIVE INVESTIGATIONS

The Department of Intellectual and Developmental Disabilities (DIDD) sometimes receives requests from contracted provider agencies, professional staff, and legal representatives/family members asking that an exception or waiver be granted from the application of Section 18.4.c in Chapter 18 of the Provider Manual:

“Administrative Staffing Actions During Active Investigations. This section states, “If there is an allegation of physical or sexual abuse, the provider is required to place any and all staff whose conduct may have contributed to the alleged abuse, on leave or assign such employee duties that do not involve direct care of persons supported, direct supervision of persons supported or supervision of other direct care staff, pending the completion of the DIDD investigation. If the provider believes that any involved staff should not be placed on leave, or reassigned, the provider agency may file a written request for waiver of this requirement to the DIDD Central Office Director of Protection from Harm, or designee. Nevertheless, as stated above, if there is an allegation of physical or sexual abuse involved staff must be placed on leave or reassigned duties that do not involve direct care of persons supported until a decision on the exception request is received from DIDD.” This protocol outlines the form in which the contracted provider, professional staff, and legal representative/family member should submit the request and the manner in which such requests will be reviewed and evaluated.

Request By Contracted Provider or Professional Staff

A request by a provider or professional staff should be forwarded to the DIDD Director of Protection from Harm, or designee.

- The request should be in writing and include the following:
 - The name of the person receiving services
 - The investigation case number
 - The name of the person under investigation with his or her job title or description of duties
 - A brief description of the allegation(s)
 - Information explaining why an exception is requested
 - A description of what safety measures will be in place to assure that persons served are protected while the allegation is under investigation.
- The written request must be signed by the provider’s Director or the professional staff and may be emailed to the Director of Protection from Harm, or designee, at

DIDD.Investigation@tn.gov. Alternatively, the request can be faxed to the Director of Protection from Harm, or designee.

- The request shall be accompanied by documentation from legal representatives/family members for **all** persons served with who the staff member(s) under investigation will be in contact if the exception is granted. This documentation should include:
 - A statement that the legal representative/family member is aware that the staff member(s) is under investigation for allegation(s) of physical or sexual abuse
 - A statement that the legal representative/family member consents that the staff member(s) may continue working and be in contact with the person served
 - The document must be signed and dated by the legal representative/family member
- The documentation from the legal representative/family member may be faxed to the Director of Protection from Harm, or designee.
- The Director of Protection from Harm, or designee, shall inform the applicant by email or fax whether the request for an exception is granted or denied. A copy of the request and approval or disapproval shall also be forwarded to the DIDD Investigations Coordinator for inclusion in the investigative file.
- During the course of the investigation, if information is obtained that would alter the exception approval; the exception may be rescinded at the Protection from Harm Director's, or designee's, discretion.

Request By Legal Representative/Family Member

If a legal representative/family member pursues a request for an exception, the Provider and/or ISC shall, upon request, assist the legal representative/family member with request. The following information should be included in the request:

- The name of the person receiving services
- The investigation case number
- The name of the person under investigation with his or her job title or description of duties
- A brief description of the allegation(s)
- Information explaining why an exception is requested

- If available, the names of other people receiving services who are or could be in contact with the staff member(s) under investigation
- A signed and dated statement that the legal representative/family member consents for the staff member(s) under investigation to continue to work with the person served.

The request may be emailed to the Director of Protection from Harm, or designee, at DIDD.Investigation@tn.gov. Alternatively, the request can be faxed to the Director of Protection from Harm, or designee.

- The Director of Protection from Harm, or designee, shall contact the involved provider to advise that the application for an exception has been made and request that the provider contact the legal representative(s)/family member(s) of any other person(s) served who may be in contact with the staff member under investigation to determine if they would object to an exception being granted.
- If there is no objection by other legal representative(s)/family member(s) of other persons served, the provider shall assist the applicant in obtaining the signed consents as described above.
- If the provider does not object to the request for the exception, it shall advise the Director of Protection from Harm, or designee. However, if there is an objection, the provider shall provide a detailed explanation of the reasons for the objection.
- The Director of Protection from Harm, or designee, shall inform the applicant and the provider by email or fax whether the request for an exception is granted or denied. A copy of the request and approval or disapproval shall also be forwarded to the DIDD Investigations Coordinator for inclusion in the investigative file.

Until the final determination of a request for an exception, the contracted provider must follow the requirements of section 18.4.c. of the Provider Manual by placing any staff whose conduct may have contributed to the alleged abuse on administrative leave or assign such employees duties that do not involve direct care of persons served or supervision of other direct care staff.